

NEW HAMPSHIRE BOARD OF MEDICINE

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NEWSLETTER

August 1999

NOTICE TO ALL PHYSICIANS: The renewal of your license was due on June 30, 1999. If you have not yet renewed your license, you should contact the Board immediately at 271-6934.

Late renewal will be available until September 30, 1999 with a payment of an additional \$100 late fee.

Recent Changes to the Board: There have been several changes at the New Hampshire Board of Medicine since our last newsletter.

Karen Lamoureux, who served as administrator for nearly five years, left the Board for a private social service organization.

Allen Hall joined the Board as its new administrator in February. He holds a BA and a Masters in Public Administration from the University of Colorado, and has both private and public sector experience. He joined us during a busy legislative and budget season.

Governor Shaheen has re-appointed Dr. Cynthia Cooper to the Medical Review Subcommittee and has also re-appointed Dr. Wassfy Hanna to the Board of Medicine.

The Medical Review Subcommittee and the Board of Medicine have been interviewing for the part time position of Administrator of the MRSC. After a lengthy screening and interview process, Dana Merrithew, M.D., has been selected for this position where he will help research medical issues and investigate cases for the MRSC. The Board will enter into a two year contract with Dr. Merrithew.

Use Of Lasers: Recently the Board has received many questions and complaints regarding the use of lasers by medical and non-medical personnel. New Hampshire law is clear on this issue. It provides that unless specific authority is granted by another statute, the use of lasers to cut, shape, burn, vaporize, or otherwise structurally alter human tissue is surgery. Laser treatments must be performed by medical personnel within the scope of their practice acts. (See RSA 329:1 Practice).

Annual Board Rankings: Each year the Federation of State Medical Boards analyses the disciplinary activities of all State Medical Boards in a publication entitled "Summary of Board Actions". The most recent edition with data from 1998, was published in April 1999.

In addition, The Public Citizens Health Research Group, headed by Dr. Sidney Wolfe, publishes its own "ranking" of medical boards based solely on the number of disciplinary actions a board takes per thousand physicians in a state.

In recent years, New Hampshire has ranked near the bottom in Dr. Wolfe's analysis. Between 1992 and 1997, New Hampshire ranked between 46th and 51st in the country on the number of disciplinary actions per thousand physicians. However, in 1998, New Hampshire

moved up to 30th in rank. The Board believes this may be secondary to increased funding, more staff and more active support by legal counsel provided by the Attorney General's office.

The New Hampshire Board of Medicine does not believe that there is a direct correlation between the number of disciplinary actions per thousand physicians and public safety. We do believe, however, that the increase in resources available to the Board has now allowed us to be more in line with board actions from other states in the country. For the record, the states that undertake the highest rate of discipline per 1,000 physicians are Alaska, Oklahoma, Mississippi, Arkansas, and West Virginia. Those with the lowest are Massachusetts, Missouri, Florida, Delaware, and Tennessee.

REMINDER: New Hampshire law (RSA 329:17,IV) provides that " Every licensed hospital, clinic, or other health care facility within the state shall report to the board any disciplinary or adverse actionagainst a person licensed by the board within 30 days after such action is taken". This includes any suspensions, restrictions or reductions of hospital privileges or other adverse actions.

Y2K, Your Clinic and Your Office: By now, everyone has heard of the Y2K problem and many may wrongly assume that this is a problem for the large computer systems of banks or the government. This assumption could not be farther from the truth. This is a problem that will affect all of us because we rely on computer chips to make our daily and working lives easier.

Simply put, the Y2K bug is the inability of computer chips, through their basic operating system, to read a two-digit code and understand that it refers to a four digit number. Depending on how it is used, this could cause many problems. The United States General Services Administration has identified 5 types of problems;

- 1) Rollover- the inability of a system to advance from December 31, 1999 to January 1, 2000.
- 2) Century- the inability to deduce the first two digits of the century given only the last two digits.
- 3) Leap Year- the inability to calculate leap years. Thereby miscalculating days for the entire year.
- 4) Computation- the inability to correctly calculate time intervals spanning past January 1,2000 or misreading the date as a command to end the file or end the program.
- 5) Transfer- the inability to exchange information between a Y2K compliant system and one that is not, or when two systems have used different solutions that are unable to communicate with each other.

Any computer, its software, or its operating systems that is used in either a clinical or business application, as well as any diagnostic, laboratory, or business equipment that needs time or date information should be checked. The following is a sample of equipment or systems that may pose a potential problem for you: personal computers, laptops, telephone systems, cash registers, credit card readers, voice mail or answering machines, time controlled safes, faxes, copiers, scanner equipment with date stamps(videos cameras, scales, etc), hand held computers, executive planners, postage machines, defibrillators, monitors, telemetry systems, blood analyzers, billing, accounting, payroll, purchasing, and inventory systems. Virtually any system that relies on a computer chip to track time and date is at risk.

No single plan will work for everyone. The following general plan may provide some guidance:

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- 1) Designate a project manager with the authority to make and enforce decisions;
- 2) Inventory all systems that have computer chips in them;
- 3) Contact your suppliers or vendors, they may have solutions or fixes already available;
- 4) Prioritize problems;
- 5) Identify solutions and implement them NOW;
- 6) Test your solutions;
- 7) Develop contingency plans in case of failure or surprises.

DISCIPLINARY ACTIONS:

The following final disciplinary actions were taken by the Board from August 1, 1998 through July 1, 1999.

James J. Bradley, M.D.- 8/13/98- Settlement Agreement. License restricted due to psychiatric impairment.

Ishmail Ersevim, M.D.- 8/13/98- Conditional Denial based on allegations of sexual misconduct during prior licensure in New Hampshire.

Kevin P. Sullivan, M.D.- 9/8/98- Decision and Order. License revoked for gross negligence based on actions taken by another state (CO).

Peter D. Barran, M.D.- 11/21/98- Conditional Denial based on conviction for manslaughter and action taken by another state (MA).

Pierre O. Durand, M.D.- 12/7/98- Decision and Order. License revoked based on allegations of sexual misconduct.

James M. Kowalczyk, M.D.- 12/7/98- Settlement Agreement. Provided false information on application.

Paul A. Tessier, M.D.- 1/8/99- Settlement Agreement. Administrative fine of \$1000 and reprimand for providing false information on application.

Jeffrey S. Shapiro, M.D.- 2/10/99- Decision and Order. License revoked based on professional misconduct in the financial exploitation of patients, inappropriate prescribing of controlled medications, refusal to release medical records to patients and unauthorized disclosure of confidential patient information.

Robert B. Meyers, M.D.-2/20/99- Settlement Agreement. License suspended for professional misconduct in the quality of care of patients.

Prem L. Jain, M.D.- 3/4/99- Decision and Order. License restricted based on action taken by another state (NY).

Marcos U. Ramos, M.D.- 3/4/99- Order of Emergency Suspension pending determination of professional misconduct.

George B. Quinn, M.D.- 3/9/99- Decision and Order. License suspended to prevent administering, distributing, or prescribing of scheduled drugs; must successfully complete the SPEX; and must submit to formal neurological testing.

Robert Arbuckle, M.D.- 3/12/99- Settlement Agreement. Reprimand for professional misconduct in the treatment of a patient.

James P Kartell, M.D.- 3/18/99- Settlement Agreement. Voluntary surrender of license pending misconduct investigation in the discharge of a firearm and an alleged homicide.

Fathi A. El-Kurd, M.D.-3/18/99- Consent Decree. Administrative fine of \$1000 and reprimand for professional misconduct.

William J. Willits, M.D.- 3/18/99- Order of Revocation. License revoked per RSA 161B:11,IV for failure to comply with a legal order of child support.

Laura Kaitz, P.A.- 4/12/99- Settlement Agreement. Reprimand and administrative fine of \$500 for unprofessional conduct for practicing without a license.

Lieselotte Suskind, M.D.- 4/19/99- Consent Decree. Reprimand based on action taken by another state (MA).

Michelle Lackovic, M.D.-4/27/99- Settlement Agreement. Reprimand for writing prescriptions after her DEA registration had expired.

James G. LoDolce, M.D.- 5/25/99- Consent Decree. Five year stayed suspension based on actions taken in another state (NY).

Barbara C. Lohn, M.D.- 6/3/99- Settlement Agreement. Reprimand for improperly accessing confidential medical information on individuals who were not her patients.

Robert H. Arbuckle, M.D.- 8/5/99- Order of Emergency Suspension for unprofessional conduct.

LEGISLATIVE UPDATE:

While education and the budget were the primary focus of the Legislature this year, there were several bills passed which should have an impact on the practices of the Board and the physicians of New Hampshire.

The first of the passed bills, **HB 486** amends RSA 329 and authorized the Board to implement a program for impaired physicians. It also directed the Board to increase licensing fees by \$10 to cover the costs of this service. The second, **SB 53** requires that out-of-state radiologists who provide defined teleradiological services to New Hampshire patients, must be licensed in New Hampshire.

Many other bills that may affect the practice of medicine in New Hampshire are still in committee and will be fully debated in the next session. Among them are; (pg-4)

HB 640- relative to grievance procedures of managed care organizations;
HB 434- providing that health care providers shall determine the appropriate course of patient treatment without penalty from insurer or health plan;
HB 637- including persons who make medical decisions as practicing medicine, and;
SB 199- establishing certain standards of accountability for HMOs and others providing managed care.

The major legislative debate on health care issues focused on **SB 199**, which is Governor Shaheen's HMO Accountability Act. A key provision of that act is the requirement that a "medical director" of an HMO should be regarded as practicing medicine whenever utilization reviews are made for which he or she is responsible and which affect health care available to the individual. A similar provision is included in **HB 637**, sponsored by James Pilliod, M.D.

Governor Shaheen's bill was defeated in the House when Speaker Sytek broke a tie to defeat the measure 176-175. It has been returned to the Senate where it will be reconsidered next session.

PROPOSED NEW RULES:

Physician Health Program...Medical Records...Prescribing for Chronic Pain

In the last newsletter, the Board sought input into several proposed rule changes. The Board wishes to thank those who took the time to provide input.

The new rules involve three separate subjects. The first proposal establishes parameters to be met by any program which seeks recognition by the Board as a monitoring program for physicians with substance abuse disorders.

The second proposal sets the ethical standards for creating, maintaining, and providing access to patient records. The Board receives numerous complaints each month regarding medical records and firmly believes that rules are necessary in this area.

The third proposal sets ethical standards for the prescribing of controlled substances for patients with chronic non-malignant pain. The rules mirror the recommendations of the Federation of State Medical Boards and are in line with the recommendations of the New Hampshire Medical Society.

The proposed rules have been finalized and are now before the Joint Committee on Administrative Rules of the New Hampshire Legislature.

Board Member Activities: N.H. Board of Medicine President Lawrence O'Connell, Ph.D., was elected to the Editorial Committee of the Federation of State Medical Boards (FSMB) at its recent annual meeting in April. The FSMB is the national organization of medical boards that assists and supports medical boards to maintain high standards in medical practice by serving as liaison, advocate, researcher, educator and information source. The FSMB publishes the "Federation Bulletin; The Journal of Medical Licensure and Discipline". Dr O'Connell was also appointed to the "FSMB Special Committee on Professional Conduct and Ethics" in 1998.